

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 20, 1998

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel(Miriam A.), J., Masterson, J., Dunn, J.
(Assigned), and S. Beaux, Deputy Clerk.

Each of the following:

B113851 People v. Cortez, et al.
B114032 People v. Collins
B114738 People v. Quintanar
B114898 People v. Kimmel
B114991 People v. Morro
B121138 In re Morro on H.C.
B115855 People v. Corniel
B117937 People v. Fox
B117974 People v. Lee
B118198 People v. Quevedo
B119303 People v. Thompkins
B118556 People v. Medina
B118615 People v. Hind
B120509 People v. Maurice G.
B121559 People v. Galbreath
B124328 Kim S. SCLA
B124980 Denise H. V. SCLA

Argument waived, cause submitted.

DIVISION ONE (Continued)

B117924 The People
 v.
 Juan Fernando G.

Merits:
Argued by Allen G. Weinberg for appellant and by Susan C. Diamond,
deputy attorney general, for respondent. Cause submitted.

B116700 The People
 v.
 Norman Edward Smith

Merits:
Argued by Charles T. Matthews for appellant and by Stephanie Miyoshi for
respondent. Cause submitted.

B116028 The People
 v.
 Ortiz

Merits:
Jean F. Matulis for appellant and Jeannie J. Park, deputy attorney general,
for respondent. Cause submitted.

B112813 The People
 v.
 Suarez

Merits:
Argued by William J. Kopeny for appellant and by David L. Polsky, deputy
attorney general, for respondent. Cause submitted.

DIVISION ONE (Continued)

B125181 Mendez
 v.
 Superior Court Los Angeles
 (The People, r.p.i.)

Merits:

Argued by Paul Montez for petitioner and by Fred Klin, deputy district attorney, for real party in interest. Cause submitted.

B119928 Commercial Waste Paper Co., Inc.
 v.
 Bye, et al.

Merits:

Argued by Bernard W. Minsky for appellant and by Peter J. Marshall for respondents. Cause submitted.

B120928 Lepacek
 v.
 Workers' Compensation Appeals Board
 (Cherne Contracting, Inc., r.p.i.)

Merits:

Argued by Robert B. Zeidner for petitioner and by Bruce L. Zachary for real party in interest. Cause submitted.

B114338 Sanchez, etc., et al.
 v.
 BKK Corporation

Merits:

Argued by Danilo Becerra for appellant and no appearance for respondent. Cause submitted.

DIVISION ONE (Continued)

B115050 The People
 v.
 Cokley

Merits:

Argued by Carlo Andreani for appellant and by Herbert S. Tetef, deputy attorney general, for respondent. Cause submitted.

B106533 Hiddleston, et al.
 v.
 Rosen, et al.

Merits:

Argued by Mark P. Robinson for appellant and by John B. Quinn for respondents. Cause submitted.

B096958 United Commercial Corporation
 v.
 Kaufman

Merits:

Argued by Robert S. Gerstein for appellant Kaufman and by Timothy L. Neufeld for respondent United Commercial Corp., and by Ronald H. Sargis for amicus curiae Calif Assoc of Collection. Cause submitted.

B099031 Life Alert Emergency Response, Inc., et al.
 v.
 Shea & Gould, et al.

Merits:

Argued by Buffy Lyn Roney for appellants and by Steven Mark Levy for respondent Shea & Gould and Roy G. Weatherup for respondent Gold Marks. Cause submitted.

Spencer, P.J. leaves the bench.

DIVISION ONE (Continued)

B118606 Waystations, Inc.
 v.
 Dept. of Real Estate, et al.

Merits:

Argued by Gary G. Kuist for appellant and by George M. Takenouchi, deputy attorney general, for respondent Dept. of Real Estate and Richard I. Arshonsky for respondent Gale. Cause submitted.

B123929 Acapulco Restaurants Inc.
 v.
 Alcoholic Beverage Control Board

Merits:

Argued by Laura Lee Gold, deputy attorney general, for respondent and by Steven Soloman and Ralph Barat Saltsman for petitioner. Cause submitted.

B113175 Certainly, Inc.
 v.
 Lola, Inc.

Merits:

Argued by Jeffrey f. Gersh and Matthew C. Kane for appellant and by Michael Libraty for respondent. Cause submitted.

B119227 Illinois Walsh Construction Company, Inc.
 v.
 Hollier Engineering & Construction, Inc.

Merits:

Argued by Brian L. Buckley for appellant and by Ted R. Gropman for respondent. Cause submitted.

Masterson, J. leaves the bench.

DIVISION ONE (Continued)

B124427 Lo, et al.
v.
Superior Court Los Angeles
(County of Los Angeles et al., r.p.i.)

Merits:

Argued by Daniel L. Helfat, deputy attorney general, for real party in interest State of California; Millicent L. Rolon for real party in interest County of Los Angeles and by Paul S. Norris for petitioner Lo and Ronald P. Kaplan for petitioner Jin. Cause submitted.

Court adjourned.

B109184 Tapar, et al. (Not for Publication)
v.
City of Los Angeles, et al.

We affirm the judgment and award defendants costs on appeal.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B114120 Goldstein (Not for Publication)
v.
City of Los Angeles

We reverse the judgment for plaintiff and enter judgment for defendant. Defendant is awarded costs on appeal.

Ortega, Acting P.J.

We concur: Masterson, J.
Dunn, J. (Assigned)

October 20, 1998-Continued

DIVISION ONE (Continued)

B119032 People (Not for Publication)
v.
James H.

Sustention of the count of making a terrorist threat is reversed. The matter is remanded to the trial court for dismissal of that count and recalculation of the maximum term of confinement. In all other respects, the judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B119081 People (Not for Publication)
v.
Pacheco

The judgment is affirmed.

Ortega, Acting P.J.

We concur: Masterson, J.
Dunn, J. (Assigned)

DIVISION TWO

B101696 Omary (Not for Publication)
v.
Crown City Construction Co., Inc.

The judgment is affirmed.

Nott, J.

We concur: Fukuto, Acting P.J.
 Zebrowski, J.

October 20, 1998-Continued

DIVISION TWO (Continued)

B118648 People (Not for Publication)
v.
Trayvon Deshawn B.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Zebrowski, J.

B116479 Rodriguez (Not for Publication)
v.
County of Los Angeles, et al.

We conclude that the denial of each motion did not constitute an abuse of discretion. The judgment is affirmed. Respondents are awarded costs on appeal.

Nott, J.

We concur: Boren, P.J.
Zebrowski, J.

[illegible]

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

DIVISION TWO (Continued)

B099411 Hutchings (Not for Publication)
v.
Prudential California Realty, et al.

The judgment is reversed. The order granting summary judgment is reversed, and the matter is remanded for trial. Respondents to bear appellants' costs on appeal.

Nott, J.

We concur: Boren, P.J.
 Zebrowski, J.

B119216 Torrance-Windemere
Homeowners Assoc. (Not for Publication)
v.
Katz

In light of appellant's failure to oppose the motion to dismiss, failure to provide a record on appeal, citation in its brief to a non-existent record, and failure to timely file its opening brief, the appeal should be, and is hereby, dismissed. (See Rules 41 (c); 10(c); 17(a).) Respondent's request for sanctions is denied. Respondent is, however, entitled to costs as the prevailing party under rule 26(a).

Zebrowski, J.

We concur: Fukuto, Acting P.J.
 Nott, J.

DIVISION TWO (Continued)

B118524 Malibu Mountains
Recreations, Inc., et al. (Certified for Publication)
v.
County of Los Angeles

The order denying the writ of mandate is affirmed, as is the judgment on the complaint. The parties are ordered to bear their respective costs on appeal.

Nott, J.

We concur: Fukuto, Acting P.J.
 Zebrowski, J.

DIVISION THREE

B104011 Maryellen Barron (Not for Publication)
B106798 v.
Safeco Insurance Company of America, et al.

The judgment is affirmed. Costs on appeal awarded to defendants.

Kitching, J.

We concur: Klein, P.J.
 Aldrich, J.

DIVISION FIVE

B121406 Los Angeles County, D.C.S. (Not for Publication)
v.
Rita B.
In re Latanae W.

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B103566 Herbert S. Wallach (Not for Publication)
v.
State of California, et al.

The judgment is affirmed. Respondent to recover its costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B109873 Louis Francis (Not for Publication)
v.
City of Pasadena

The judgment is reversed and the matter is remanded to allow appellant an opportunity to amend his complaint to allege facts showing compliance with the Governmental Tort Claims Act. Appellant to recover his costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B115341 Jessie Robertson (Not for Publication)
v.
Hollywood Park, Inc., et al.

The order of July 2, 1997, denying appellant's motion to vacate the earlier grant of summary judgment for respondent is affirmed. Each party to bear their own costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B124019 Department of Children (Not for Publication)
 and Family Services

v.
Superior Court, Los Angeles County
(Precious J., r.p.i.)

Petition dismissed as moot. No costs are awarded in this proceeding.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B113483 People (Not for Publication)

v.
James Landsberger

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

B115754 People (Not for Publication)

v.
Don Morrison

The judgment is affirmed.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
 Armstrong, J.

October 20, 1998-Continued

DIVISION FIVE (Continued)

B113810 People (Not for Publication)
v.
Erick C.

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

B112385 People v. Andrei Belei (Not for Publication)
B125354 In Re Andrei Belei on Habeas Corpus

The judgment is modified to reflect presentence custody credit of 1,283 Days comprised of credit for 923 days in actual custody, plus 230 days of good conduct credit. The trial court is directed to send to the Department of Corrections a corrected abstract of judgment. In all other respects, the judgment is affirmed. Petition for habeas corpus is denied.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B123775 Los Angeles County, D.C.S.
v.
Debra F. et al.

The Court:

The appeal of the father, Michael F. and the mother, Debra F., is dismissed.

DIVISION SIX

B119926 Tilley (Not for Publication)

v.

Mora, et al.

City of Atascadero

The post-judgment order apportioning attorney's fees and litigation expenses is affirmed. Costs are awarded to respondent.

Gilbert, J.

We concur: Stone, P.J.
 Yegan, J.

B119059 Bobit (Not for Publication)

v.

National Casualty Company

The judgment is affirmed. Costs are awarded to respondent.

Stone, P.J.

We concur: Gilbert, J.
 Coffee, J.

B113987 People (Not for Publication)

v.

Hong

The abstract of judgment must be modified to reflect a fine not to exceed \$10,000. In all other aspects, the judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
 Yegan, J.

DIVISION SEVEN

B116157 People v. Thomas (Not for Publication)

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

[illegible]

The judgment is modified to impose a restitution fine of \$200; and additional restitution fine of \$200, suspended until such time as appellant violates parole, if ever; a \$50 lab fee; penalty assessments of \$50 and \$35; and a requirement that appellant register as a narcotics offender. As modified, the judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B118827 People (Not for Publication)
v.
Caito

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B121246 Los Angeles County, D.C.S.
 v.
 Laura R.

 Filed order dismissing appeal.